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10/668,260	09/24/2003	Yasuomi Ooki	02530029AA	7772
30743	7590	11/15/2007		
WHITHAM, CURTIS & CHRISTOFFERSON & COOK, P.C. 11491 SUNSET HILLS ROAD SUITE 340 RESTON, VA 20190				
			EXAMINER	
			BENGZON, GREG C	
			ART UNIT	PAPER NUMBER
			2144	
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			11/15/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/668,260	OOKI ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Greg Bengzon	2144

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 24 August 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1,7 and 9-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,7 and 9-17 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

This application has been examined. Claims 1,7,9-17 are pending. Claim 2-6,8 are cancelled.

### ***Making Final***

Applicant's arguments filed 08/24/2007 have been fully considered but they are not persuasive.

The claim amendments regarding -- '*a gateway arranged to receive the communications from the terminals and to selectively connect the terminals to the internet*' -- and -- '*a charging server connected to the plurality of gateways*' -- alter the scope of the claims but do not overcome the disclosure by the prior art as shown below.

The Examiner is introducing new grounds for rejection as necessitated by claim amendments and thus making this action FINAL.

### ***Priority***

This application claims benefits of priority from Foreign Application 339334 (JAPAN) filed November 22, 2002.

The effective date of the claims described in this application is November 22, 2002.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 recites a limitation wherein '*the gateway is arranged to detect and store the total communication extent for each location*'. The Examiner notes that there is insufficient guidance in the Applicant Specification regarding the term '*communication extent*', and that a person of ordinary skill in the networking art would not be able to ascertain the scope and bounds of said '*communication extent*'.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1,9-10,12-15, 17 rejected under 35 U.S.C. 103(a) as being unpatentable over Moskowitz (US Publication 2003/0200439) in view of Van Horne (US Patent 5987430) in view of what was well-known in the networking art.

Moskowitz disclosed (re. Claim 1) a plurality of terminals, each terminal located in a –predetermined location, each terminal arranged to generate communications having a location identifier unique to the terminal; (Moskowitz-Paragraph 12, ‘*a generator to generate a packet watermark associated with the stream of data*’ , Paragraph 28, ‘*associated packet watermark[s] by determinations of any or combinations there of the following: Ethernet IDs, port IDs, URLs, DNS addresses, IP addresses*’)

Moskowitz disclosed (re. Claim 1) an internet connection system arranged to receive the communications from the terminals and to selectively connect the terminals to the internet, arranged to record a communication band usage for each of the terminals (Moskowitz-Paragraph 15, ‘*establishing an account whereby a customer is credited with a predetermined amount of bandwidth usage*’ ) indicating a quantity of communications through the system having the unique location identifier of the terminal, and arranged to generate a communication fee data unique to each terminal,

(Moskowitz-Paragraph 15, 'debit may be in an amount of bandwidth usage which corresponds to an agreed upon transactional charge').

Moskowitz did not explicitly disclose (re. Claim 1) wherein the communication fee data based on a ratio of the recorded communication band usage for the terminal to a total of the recorded communication band usage of all of the plurality of terminals.

Moskowitz disclosed a convenience premium for greater bandwidth allocation (Moskowitz-Paragraph 78, 'higher demands for bandwidth') and also a need to prevent bandwidth hoarding (Moskowitz-Paragraph 86, 'Some mechanism must be in place to prevent attacks on the system, by a party, who, in effect, tries to corner the market in bandwidth'). At the same time Moskowitz disclosed (Moskowitz-Paragraph 86) that *the accounting of the bandwidth used should not exceed the value of bandwidth provided.*

The Examiner notes that at the time of the invention it was well-known in the art that the bandwidth usage is often a component in the price charged to the customer by the operator/service provider. Given this knowledge, it would have been obvious to a person of ordinary skill in the networking art to calculate said convenience premium disclosed by Moskowitz, wherein the communication premium is based on a ratio of the recorded communication band usage for the terminal to a total of the recorded communication band usage of all of the plurality of terminals.

Furthermore, while Moskowitz did not disclose (re. Claim 1) a location for each terminal, it would have been obvious to a person of ordinary skill in the networking art that the '*Ethernet IDs, port IDs, URLs, DNS addresses, IP addresses*' representing the data stream source are associated with a physical location of the terminal in the configuration database of a network management system.

While Moskowitz substantially disclosed the claimed invention, Moskowitz did not disclose (re. Claim 1) where said system is implemented using a gateway providing access to the internet.

Moskowitz did not disclose (re. Claim 1) wherein at least one terminal provided in each of a plurality of predetermined locations is connected to internet via a gateway commonly used by at least two locations and an access line.

Van Horne disclosed (re. Claim 1) wherein at least one terminal provided in each of a plurality of predetermined locations is connected to internet via a gateway commonly used by at least two locations and an access line. (Van Horne- Column 7 Lines 10-20, 'the server 110 acts as in interface between the client system 10 and the electronic communications network 310')

Moskowitz and Van Horne are analogous art because they present concepts and practices regarding calculating billing charges for connectivity to the Internet. At the time of the invention it would have been obvious to a person of ordinary skill in the networking art to combine Van Horne into Moskowitz. The motivation for said

combination would have been to provide a less complicated system for access and billing. (Van Horne-Column 3 Lines 60-65)

Moskowitz-Van Horne disclosed (re. Claim 9) an internet system, wherein: at least one wireless terminal and a wireless LAN base station wireless LAN (Van Horne- Column 7 Lines 66-68,' *access port 160 is equipped with a wireless transmitter and the server 110 (more specifically interface 150) is equipped with a wireless receiver'*) connected to the wireless terminal are provided in each of a plurality of predetermined locations; at least one wireless terminal wireless LAN connected to the wireless LAN base station belonging to the afore-said one location is provided in a different location adjacent to the afore-said location; the wireless terminal is connected to internet via the gateway (Van Horne- Column 7 Lines 10-20,' *the server 110 acts as in interface between the client system 10 and the electronic communications network 310'*) connected to the wireless LAN base station and an access line connected to the gateway; and locations, in which terminals in communication are provided, is discriminated, (Moskowitz-Paragraph 12,' *a generator to generate a packet watermark associated with the stream of data'* , Paragraph 28,' *associated packet watermark[s] by determinations of any or combinations there of the following: Ethernet IDs, port IDs, URLs, DNS addresses, IP addresses'*) the used communication band is recorded for each location, (Moskowitz-Paragraph 15,' *establishing an account whereby a customer is credited with a predetermined amount of bandwidth usage'*) and a communication fee is computed based on the used communication band recorded for each location.

(Moskowitz-Paragraph 15, 'debit may be in an amount of bandwidth usage which corresponds to an agreed upon transactional charge')

Claims 10 is rejected on the same basis as Claim 9.

Furthermore, the Examiner notes that (re. Claim 10) the methods to *selectively connectively connect the wireless terminals to the internet through the gateway and through the wireless LAN base station of the plurality of wireless LAN base station having the highest measured communication speed* were well-known in the networking art. (See Voit, US Patent 6157636, Cx 24 Lx 30-50, 'optimal routing and gateway selection')

Moskowitz-Van Horne disclosed (re. Claim 12) an internet connection system, wherein: at least one wireless terminal and a wireless LAN base station wireless LAN connected to the wireless terminal (Van Horne-Column 7 Lines 66-68, 'access port 160 is equipped with a wireless transmitter and the server 110 (more specifically interface 150) is equipped with a wireless receiver') are provided in each of a plurality of predetermined locations; each wireless terminal is also wireless LAN connected to the wireless LAN base station in a location other than the own location; the wireless LAN base stations belonging to the plurality of locations are respectively connected to gateways gateway (Van Horne- Column 7 Lines 10-20, 'the server 110 acts as in

*interface between the client system 10 and the electronic communications network 310')*

and connected to internet via an access line connected to the gateway;

Moskowitz-Van Horne disclosed (re. Claim 13) an internet connection system, wherein: at least one wireless terminal and a wireless LAN base station wireless LAN connected to the wireless terminal (Van Horne-Column 7 Lines 66-68, 'access port 160 is equipped with a wireless transmitter and the server 110 (more specifically interface 150) is equipped with a wireless receiver') are provided in each of a plurality of predetermined locations; each wireless terminal is also wireless LAN connected to the wireless LAN base station in a location other than the own location; the wireless LAN base stations belonging to the plurality of locations are respectively connected to gateways gateway (Van Horne- Column 7 Lines 10-20, 'the server 110 acts as *in interface between the client system 10 and the electronic communications network 310')* and connected to internet via an access line connected to the gateway;

Moskowitz-Van Horne disclosed (re. Claim 14) wherein the maximum communication speed is preset for each location, (Moskowitz-Paragraph 15, 'establishing an account whereby a customer is credited with a predetermined amount of bandwidth usage', Paragraph 50,'bandwidth affects speed') .

While Moskowitz substantially disclosed the claimed invention (re. Claim 14) Moskowitz did not disclose wherein the communication operation is set to a waiting state when the communication band sum in the location, in which the terminal is provided, exceeds the maximum communication speed and is resumed when the communication band becomes lower than the maximum communication speed.

The Examiner notes that Claim 14 is describing an operating condition that is very common to bottleneck conditions arising from the shortage of available bandwidth.

At the time of the invention it would have been well-known in the networking art that whenever the total bandwidth allocation is consumed, the communication operation is set to a wait state until additional bandwidth becomes available.

Moskowitz-Van Horne disclosed (re. Claim 15) *wherein a user in one location is re-assigned a quantity of the communication bands assigned to another location,* (Moskowitz-Paragraph 89, "any" user could buy bandwidth rights at times of low demand, and hope to sell them at a profit in times of higher demand) and the user in the aforesaid location pays the use fee to the user in the different location. (Moskowitz-Paragraph 102, Paragraph 104)

While Moskowitz substantially disclosed the claimed invention Moskowitz did not disclose (re. Claim 17) wherein the locations are rooms.

Moskowitz-Van Horne disclosed (re. Claim 17) wherein the locations are rooms.(Van Horne-Column 8 Lines 15-20)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7,11, 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Moskowitz (US Publication 2003/0200439) in view of Van Horne (US Patent 5987430) in view of Short (US Publication 20060239254 Applicant) in view of what was well-known in the networking art.

Moskowitz-Van Horne disclosed (re. Claim 7) an internet connection system comprising a plurality of gateways.

Regarding the plurality of gateways, the Examiner notes that mere duplication of parts has no patentable significance unless a new and unexpected result is produced.

While Moskowitz-Van Horne substantially disclosed the invention, Moskowitz-Van Horne did not disclose (re. Claim 7) a charging server.

Short disclosed (re. Claim 7) a charging server with multiple gateway devices for implementing internet access. (Short-Figure 1, 'AAA Server', Paragraph 18)

Moskowitz, Van Horne and Short are analogous art because they present concepts and practices regarding calculating billing charges for connectivity to the Internet. At the time of the invention it would have been obvious to a person of ordinary skill in the networking art to combine Short into Moskowitz-Van Horne. The motivation for said combination would have been so that each packet can be filtered through the selective AAA process, so that a user can be identified and authorized access. (Short-Paragraph 7)

Moskowitz-Van Horne-Short disclosed (re. Claim 7) a charging server (Short-Figure 1, 'AAA Server', Paragraph 18) arranged to receive the communications from the terminals and to selectively connect the terminals to the internet, arranged to record a communication band usage for each of the terminals (Moskowitz-Paragraph 15,'  
*establishing an account whereby a customer is credited with a predetermined amount of bandwidth usage*') indicating a quantity of communications through the system having the unique location identifier of the terminal, and arranged to generate a communication fee data unique to each terminal, (Moskowitz-Paragraph 15,'  
*debit may be in an amount of bandwidth usage which corresponds to an agreed upon transactional charge*').

The Examiner notes that the methods for identifying devices and allowing access according to MAC addresses were well-known in the networking art.

Moskowitz-Van Horne-Short disclosed (re. Claim 11) an internet connection system, wherein: at least one wireless terminal and a wireless LAN base station wireless LAN connected to the wireless terminal (Van Horne-Column 7 Lines 66-68, 'access port 160 is equipped with a wireless transmitter and the server 110 (more specifically interface 150) is equipped with a wireless receiver') are provided in each of a plurality of predetermined locations; each wireless terminal is also wireless LAN connected to the wireless LAN base station in a location other than the own location; the wireless LAN base stations belonging to the plurality of locations are connected to a common gateway (Van Horne- Column 7 Lines 10-20, 'the server 110 acts as *in interface between the client system 10 and the electronic communications network 310*')

Moskowitz-Van Horne-Short disclosed (re. Claim 11) a charging server (Short- Figure 1, 'AAA Server', Paragraph 18) arranged to receive the communications from the terminals and to selectively connect the terminals to the internet, arranged to record a communication band usage for each of the terminals (Moskowitz-Paragraph 15, 'establishing an account whereby a customer is credited with a predetermined amount of bandwidth usage') indicating a quantity of communications through the system having the unique location identifier of the terminal, and arranged to generate a communication fee data unique to each terminal, (Moskowitz-Paragraph 15, 'debit may be in an amount of bandwidth usage which corresponds to an agreed upon transactional charge').

Moskowitz-Van Horne-Short disclosed (re. Claim 16) wherein each of the terminals are arranged to include a MAC address and to generate communication reflecting the MAC address, and wherein the gateway includes a register to store authorized MAC addresses for each of the predetermined locations, and wherein the, gateways is arranged to enable communications between each of the terminals and the internet based on the MAC address of the communication terminal. (Short- Paragraph 63)

### **Response to Arguments**

Applicant's arguments filed 08/24/2007 have been considered but are moot in view of the new ground(s) of rejection.

### **Conclusion**

**Examiner's Note:** Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Bengzon whose telephone number is (571) 272-3944. The examiner can normally be reached on Mon. thru Fri. 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571)272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

gcb

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SUPERVISORY PATENT EXAMINER  
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JULY 2009

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